

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-013485
Related: CV 2009-013630

04/29/2011

HONORABLE HUGH HEGYI

CLERK OF THE COURT
K. Ballard
Deputy

CANYON PHYSICIANS II INC

JOSEPH A SCHENK

v.

LESLIE EDISON, et al.

ROBERT L EARLE

JUDGE MANGUM

JURY TRIAL SET

Courtroom: ECB - 611

9:26 a.m. This is the time set for Status Conference. Plaintiff/Counterdefendant Canyon Physicians II, Inc. and Counterdefendants Behcon, Inc., Dennis Pickering, Robert L. Pickering, Susan Pickering, and Timothy J. Pickering are represented (telephonically) by Counsel Joseph A. Schenk. Defendant/Counterclaimant Leslie Edison is represented (telephonically) by Counsel Robert L. Earle.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Discussion is held regarding Defendant's April 19, 2011 Motion to Reconsider Defendant's Motion to Consolidate with Case No. CV 2009-013630 (assigned to Judge Mangum).

IT IS ORDERED denying the Motion to Reconsider without prejudice as CV 2009-013630 does not meet the Court's criteria for setting a trial date, and the present matter before the Court will be set for trial today. Defendant's counsel is advised he may re-file the motion if

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and when the parties in the other case have completed all discovery, participated in an unsuccessful settlement conference, and filed dispositive motions. However, counsel is advised that the Court will not likely reset the trial set below or extend the number of trial days.

IT IS ORDERED setting this matter for a **six-day** Jury Trial beginning on **October 18, 2011 at 9:30 a.m.** (concluding by 4:30 p.m. on October 26, 2011) in this Division:

**THE HONORABLE HUGH E. HEGYI
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON
6TH FLOOR, COURTROOM 611
PHOENIX, AZ 85003
602-506-3963 TEL
602-372-8636 FAX**

Trial days are Monday through Thursday.

IT IS FURTHER ORDERED setting this matter for a **Comprehensive Pretrial Management Conference** for **September 30, 2011 at 10 a.m.** (time allotted: **one hour**) in this Division. All counsel must **appear in person** and cannot appear telephonically.

NOTE: All court proceedings are recorded by audio and video method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division (602-506-3963) three (3) court business days before the scheduled hearing.

9:44 a.m. Matter concludes.

Based upon the foregoing trial setting,

IT IS FURTHER ORDERED as follows:

DUTIES PRIOR TO THE PRETRIAL MANAGEMENT CONFERENCE

1. **MOTIONS IN LIMINE.** All motions in limine shall be filed no later than **5 p.m. on September 9, 2011**, and such motions must meet the test of State v. Superior Court, 108 Ariz. 396, 397; 499 P.2d 152 (1972): The primary purpose of a motion in limine is to

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avoid disclosing to the jury prejudicial matters which may compel a mistrial. See also, Ariz. R. Evid. 103(c). A written response to a motion in limine may be filed no later than ten (10) calendar days thereafter. The Court may rule on motions in limine without oral argument. No replies shall be filed. The parties must comply with Rule 7.2(a) Ariz.R.Civ.P., prior to filing any motion in limine. Any motion in limine filed without the movant having first complied with Rule 7.2(a), will be stricken by the Court.

2. **JOINT PRETRIAL STATEMENT.** Counsel shall file with the Court no later than **5 p.m. on September 23, 2011**, a **Joint Pretrial Statement conforming in all respects to Rule 16(d), ARCP**, except as specifically otherwise provided herein, and signed by all counsel.

a) **Deposition Summary:** In addition to the information required by Rule 16(d), counsel shall at the Pretrial Management Conference provide to the Court copies of any deposition transcripts to be read to the jury. The offering party will highlight the portions to be read, the other side will highlight Rule 106 additions, and any objections for the court to rule on will be clearly marked in the margin. The parties are encouraged to agree on narrative summaries of deposition testimony, using brief question and answer excerpts only to emphasize very important testimony or to cover areas of testimony that cannot be summarized to the satisfaction of all counsel. No stipulation should be unreasonably refused.

b) **Final Trial Witnesses:** In addition to the information required by Rule 16(d), the Joint Pretrial Statement shall include an exhibit entitled: **Final Trial Witness List**. This list shall contain the name of each witness a party actually intends to call at trial, the day on which they intend to call each witness and the estimated time needed for direct, cross and re-direct examination.

3. **JURY INSTRUCTIONS; VOIR DIRE QUESTIONS.** Counsel shall meet and agree on as many proposed jury instructions as possible. Counsel shall file with the Court, with their Joint Pretrial Statement, copies of:

a) Proposed voir dire questions.

b) A joint set of agreed-upon preliminary and final jury instructions and **proposed forms of verdicts**.

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- c) Separate sets of requested instructions that have not been agreed upon. Please read Rosen v. Knaub, 175 Ariz. 329; 85 P.2d 381 (1993) and the RAJI Civil 4th Statement of Purpose and Approach before preparing requests for non-RAJI instructions.

Recommended Arizona Jury Instructions (RAJI) need not be typed and may be requested in the following manner: RAJI 4th Standard 1 - Duty of Jurors. Non-RAJI instructions should be typed. Each instruction should cover only one subject.

Any jury instructions not filed with the Court together with the Joint Pretrial Statement will be deemed waived by the Court, unless the Court concludes that good cause exists for the untimely submission.

DUTIES AT PRETRIAL MANAGEMENT CONFERENCE

- 4. At the Pretrial Management Conference, counsel shall be prepared to discuss:
 - a) Time limits in voir dire, opening statements, examination of witnesses and closing arguments.
 - b) Stipulations for the foundation and authenticity of exhibits.
 - c) Preliminary jury instructions, juror notebooks (counsel shall bring any proposed juror notebooks to the conference), mini opening statements and voir dire.
 - d) Agreed-upon deposition summaries and excerpts from deposition transcripts and the editing of any videotaped depositions.
 - e) Use of short-trial or summary jury trial.
 - f) Any special scheduling or equipment issues.
- 5. Counsel shall call the courtroom clerk at 602-506-8593 no later than **October 4, 2011** to make arrangements for delivering exhibits. The exhibits will be marked serially as they are listed in the Joint Pretrial Statement – Plaintiff’s first, Defendant’s second. **Prior to**

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presenting the exhibits to the clerk, counsel shall also meet and confer to **eliminate any duplicate exhibits**.

The Court requires one set of exhibits to be marked and a second set in a binder for the Judge's use during the trial.

6. One day's jury fees will be assessed unless the court is notified of settlement before 2:00 p.m. on the judicial day before the trial. Counsel are reminded to promptly notify the court of any settlement pursuant to Rule 5.1(c), Ariz.R.Civ.P.
7. The dates set forth in this Order are FIRM dates and will not be extended or modified by this Court absent good cause. Lack of preparation will not ordinarily be considered good cause.